



court proceeding (see “Related Cases” below). Ten days following Respondent’s Answer to the Amended Complaint, the parties shall exchange the name, and if known, the address and telephone number of each individual likely to have discoverable information relevant to the allegations in the Commission’s Amended Complaint, to the proposed relief or to the defenses of the Respondent.

2. Statement of Facts.

**[Complaint Counsel’s proposal]**

On February 21, 2007, Whole Foods and Wild Oats executed an agreement whereby Whole Foods would acquire all the voting securities of Wild Oats through WFMI Merger Co., a wholly-owned subsidiary of Whole Foods (the “Acquisition”). The Commission issued an administrative complaint on June 27, 2007 alleging that Whole Foods’ acquisition of Wild Oats violates the antitrust laws. The proposed Amended Complaint alleges that the relevant product market is the operation of premium natural and organic supermarkets and that the relevant geographic market is an area as small as approximately five or six miles in radius from premium natural and organic supermarkets or as large as a metropolitan statistical area, and that Whole Foods and Wild Oats were each other’s closest competitors in approximately 22 geographic markets. On July 17, 2007, Whole Foods and Wild Oats each filed their Answers to Complaint Counsel’s original Complaint. On August 17, 2007, the Commission ordered a stay of the administrative proceeding pending the proceedings in the collateral federal district court case. On August 8, 2008, the Commission issued its Order Rescinding Stay of Administrative Proceeding, Setting Scheduling Conference, and Designating Presiding Official.

**[Respondent's proposal]**

On February 21, 2007, Whole Foods and Wild Oats executed an agreement whereby Whole Foods would acquire all the voting securities of Wild Oats through WFMI Merger Co., a wholly-owned subsidiary of Whole Foods (the "Acquisition"). On March 13, 2007, the FTC issued a Request for Additional Information and Documentary Material (e.g., "Second Request") to Whole Foods and Wild Oats. During its investigation of the proposed merger, staff of the Federal Trade Commission conducted 13 investigational hearings and obtained approximately 20 million documents from Whole Foods and Wild Oats. On June 6, 2007, the FTC filed a complaint and motion for a preliminary injunction in the United States District Court for the District of Columbia. During the expedited discovery period for the preliminary injunction matter, Respondent Whole Foods had approximately three weeks in which to conduct fact discovery. See no. 8 below (related cases).

The Commission issued an administrative complaint on June 27, 2007 alleging that Whole Foods' acquisition of Wild Oats violates the antitrust laws. On July 17, 2007, Whole Foods and Wild Oats each filed their Answers to the Commission's original Complaint. On August 7, 2007, the Commission ordered a stay of the administrative proceeding pending the proceedings in the collateral federal district court case. On August 28, 2007, Whole Foods completed its acquisition of Wild Oats, promptly after which Whole Foods began to integrate Wild Oats into Whole Foods and operated the company as a single entity.

On August 8, 2008, the Commission issued its Order Rescinding Stay of Administrative